

SENATE BILL NO. 294

BY SENATOR NEVERS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

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To amend and reenact Code of Criminal Procedure Article 644(A) and (D)(1) and

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905.5.1(F), R.S. 9:2800.2(A), R.S. 15:560.2(B)(1), R.S. 17:7.1(D), R.S. 22:998(A)

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and (C), and 1043(A)(4), R.S. 23:1371.1(2), R.S. 28:2(12.1) and (22)(b),

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51.1(A)(2)(a) and 221(10), R.S. 37:1744(A)(2), 1745(A)(2), 1745.14(C)(4),

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2360(A)(1), (2) and (3), 2365(A) and (B), and 3386.1(15)(b), R.S. 40:1098.2(5)(b)

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and 2114(B), and R.S. 44:4(29) and to enact Part VI of Chapter 15 of Title 37 of the

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Louisiana Revised Statutes of 1950, to be comprised of R.S. 37:1360.51 through

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1360.72 and R.S. 37:2356.1, and to repeal Part II of Chapter 28 of Title 37 of the

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Louisiana Revised Statutes of 1950, comprised of R.S. 37:2371 through 2378,

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relative to medical psychologists; to transfer the regulation of medical psychologists

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from the State Board of Examiners of Psychologists to the Louisiana State Board of

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Medical Examiners; to provide for definitions; to provide for powers and duties of

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the Louisiana State Board of Medical Examiners; to provide for licensure; to provide

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for a certificate of advanced practice; to provide for standards of practice; to create

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the Medical Psychology Advisory Committee; to provide for privileged

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communications; to provide for continuing medical education; to provide for

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violations and penalties; to provide for orders to nurses; to provide for transfer of

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files; to direct the Louisiana State Law Institute to make certain language corrections

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to current law; to provide for rules and regulations; and to provide for related

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matters.

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Be it enacted by the Legislature of Louisiana:

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Section 1. Code of Criminal Procedure Art. 644(A) and (D)(1) and 905.5.1(F) are

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hereby amended and reenacted to read as follows:

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Art. 644. Appointment of sanity commission; examination of defendant

A. Within seven days after a mental examination is ordered, the court shall appoint a sanity commission to examine and report upon the mental condition of the defendant. The sanity commission shall consist of at least two and not more than three members who are licensed to practice medicine in Louisiana, who have been in the actual practice of medicine for not less than three consecutive years immediately preceding the appointment, and who are qualified by training or experience in forensic evaluations. The court may appoint, in lieu of one physician, a clinical psychologist **or medical psychologist** who is licensed to practice psychology in Louisiana, who has been engaged in the practice of clinical or counseling psychology for not less than three consecutive years immediately preceding the appointment, and who is qualified by training or experience in forensic evaluations. Every sanity commission shall have at least one psychiatrist as a member of the commission, unless one is not reasonably available, in which case, the commission shall have at least one clinical psychologist as a member of the commission. No more than one member of the sanity commission shall be the coroner or any of his deputies.

\* \* \*

D.(1) The court, in any judicial district which enters into a cooperative endeavor agreement with the local mental health unit, in lieu of appointing a sanity commission as provided in Paragraph A, may appoint the local mental health unit to examine and report on the mental condition of the defendant. If the local mental health unit is ordered to conduct the examination, it shall form a clinical team, consisting of at least two but not more than three members, to conduct the examination. The clinical team shall be composed of one or more licensed physicians with at least three years experience in the study of psychiatry in an approved United States General Psychiatry Residency Program; if only one such licensed physician is a member of the clinical team, the remaining members of the clinical team may be composed of clinical psychologists, **medical psychologists**, or licensed clinical social workers, who are qualified by training or experience in forensic evaluations.

\* \* \*

Art. 905.5.1. Mental retardation

\* \* \*

F. When a defendant makes a claim of mental retardation under this Article, the state shall have the right to an independent psychological and psychiatric examination of the defendant. A psychologist or medical psychologist conducting such examination must be licensed by the Louisiana State Board of Examiners of Psychologists or the Louisiana State Board of Medical Examiners, whichever is applicable. If the state exercises this right, and upon written motion of the defendant, the state shall provide the defendant, within time limits set by the court, any and all medical, correctional, educational, and military records, and all raw data, tests, test scores, notes, behavioral observations, reports, evaluations, and any other information of any kind reviewed by any state expert in forming the basis of his opinion that the defendant is not mentally retarded. If the state fails to comply with any such order, the court may impose sanctions as provided by Article 729.5.

\* \* \*

Section 2. R.S. 9:2800.2(A) is hereby amended and reenacted to read as follows:

§2800.2. Psychologist, psychiatrist, marriage and family therapist, licensed professional counselor, and social worker; limitation of liability

A. When a patient has communicated a threat of physical violence, which is deemed to be significant in the clinical judgment of the treating psychologist or psychiatrist, or marriage and family therapist, or licensed professional counselor, or social worker, against a clearly identified victim or victims, coupled with the apparent intent and ability to carry out such threat, the psychologist, licensed under R.S. 37:2351 through 2369, the medical psychologist, licensed under R.S. 37:1360.51 through 1360.72, ~~or~~ the psychiatrist, licensed under R.S. 37:1261 through 1291, or the social worker, credentialed under R.S. 37:2701 through 2723, treating such patient and exercising reasonable professional judgment, shall not be liable for a breach of confidentiality for warning of such threat or taking precautions to provide protection from the patient's violent behavior.

\* \* \*

Section 3. R.S. 15:560.2(B)(1) is hereby amended and reenacted to read as follows:

§560.2. Louisiana Sex Offender Assessment Panel

\* \* \*

B. Each panel shall consist of three members who are employees of the department and are selected by the secretary to serve on a panel. The secretary shall select the makeup of the panel based upon the feasibility, practicability, and effectiveness of each panel as determined by the secretary and established by rules adopted pursuant to the provisions of the Administrative Procedure Act and in accordance with the following provisions:

(1) One member shall be either a psychologist licensed by the Louisiana State Board of Examiners of Psychologists **or a medical psychologist licensed by the Louisiana State Board of Medical Examiners** who has been engaged in the practice of clinical or counseling psychology for not less than three consecutive years or a physician in the employ or under contract to the department whose credentials and experience are not incompatible with the evaluation of the potential threat to public safety that may be posed by a sexually violent predator or a child sexual predator.

\* \* \*

Section 4. R.S. 17:7.1(D) is hereby amended and reenacted to read as follows:

§7.1. Certification of teachers; certification of principals and superintendents; certification of school psychologists

\* \* \*

D. The State Board of Elementary and Secondary Education shall, by regulation, prescribe the qualifications, provide for the certification, and provide for the supervision of school psychologists in the employ of any public agency regulated by the board, notwithstanding the provisions of R.S. 37:2363 or any other provisions of law to the contrary. The certification requirements shall not be less than those requirements established by the National Association of School Psychology. Nothing herein shall be construed as permitting a person certified under the provisions of this Subsection to offer to render, or to render his services as a psychologist in any setting

other than his institutional employment unless he has been licensed under the provisions of R.S. 37:2356 or licensed as a medical psychologist under the provisions of R.S. 37:1360.51 et seq.

\* \* \*

Section 5. R.S. 22:998(A) and (C), and 1043(A)(4) are hereby amended and reenacted to read as follows:

§998. Hospital and medical expense policies; services of licensed psychologists

A. Whenever any hospital or medical expense policy or hospital or medical service contract issued, or issued for delivery in this state provides for the reimbursement of health related services that can lawfully be performed by a duly licensed psychologist as regulated under the provisions of R.S. 37:2351-2368 or by a duly licensed medical psychologist as regulated under the provisions of R.S. 37:1360.51 et seq., the insured or other person entitled to benefits under such contract shall be entitled to reimbursements for such services performed by a duly licensed psychologist notwithstanding any provisions of the contract to the contrary.

\* \* \*

C. The provisions of this Section shall apply only to those services which a duly licensed psychologist is authorized to perform under the provisions of Chapter 28 of Title 37 of the Louisiana Revised Statutes of 1950, or a duly licensed medical psychologist is authorized to perform under the provisions of Chapter 15 of Title 37 of the Louisiana Revised Statutes of 1950.

\* \* \*

§1043. Severe mental illness and other mental disorders; policy provisions; minimum requirements; group, blanket, and association policies

A. \* \* \*

(4) These benefits shall be payable when the treatment or services are rendered by a physician licensed under the provisions of R.S. 37:1261 et seq., psychologist licensed under the provisions of R.S. 37:2351 et seq., medical psychologist licensed under the provisions of R.S. 37:1360.51 et seq., or when the treatment or services are rendered by a licensed clinical social worker licensed under

the provisions of R.S. 37:2701 et seq., who is a member of a national clinical social work registry.

\* \* \*

Section 6. R.S. 23:1371.1(2) is hereby amended and reenacted to read as follows:

§1371.1. Definitions

As used in this Part, unless the context clearly indicates otherwise, the following terms shall be given the meaning ascribed to them in this Section:

\* \* \*

(2) "Psychologist" shall mean an individual licensed to practice psychology by the Louisiana State Board of Examiners of Psychologists **or licensed to practice medical psychology by the Louisiana State Board of Medical Examiners,** or, in the event an individual is practicing psychology in a jurisdiction other than Louisiana, licensed by the appropriate member board of the Association of State and Provincial Psychology Boards to practice psychology, who has registered specialty in a relevant clinical area of practice, who has been in clinical practice for at least three years and has training and experience in the evaluation, diagnosis, and treatment of mental retardation.

\* \* \*

Section 7. R.S. 28:2(12.1) and (22)(b), 51.1(A)(2)(a) and 221(10) are hereby amended and reenacted to read as follows:

§2. Definitions

Whenever used in this Title, the masculine shall include the feminine, the singular shall include the plural, and the following definitions shall apply:

\* \* \*

(12.1) "Medical psychologist" means a psychologist who has undergone specialized training in clinical psychopharmacology and has passed a national proficiency examination in psychopharmacology approved by the ~~State Board of Examiners of Psychologists~~ **Louisiana State Board of Medical Examiners** and who holds **a current and valid license** from the ~~board a current certificate of prescriptive authority, as defined in R.S. 37:2371(2)~~ **Louisiana State Board of Medical**

**Examiners.** For the purposes of this Chapter a medical psychologist shall have at least three years training, primary experience, or both, in diagnosis and treatment of mental illness.

\* \* \*

(22) \* \* \*

(b) "Psychologist" means an individual licensed to practice psychology in Louisiana in accordance with R.S. 37:2351 et seq., **or licensed to practice medical psychology in Louisiana in accordance with R.S. 37:1360.51 et seq.,** and who has been engaged in the practice of a clinical specialty for not less than three years.

\* \* \*

§51.1. Treatment facility; staff membership and institutional privileges; certain health care providers

A. \* \* \*

(2) Staff membership, specifically delineated institutional privileges, or both, granted to a medical psychologist shall be conditioned upon all of the following requirements:

(a) The applicant medical psychologist shall have a valid, current, unrestricted ~~certificate of prescriptive authority~~ **license** issued to him by the Louisiana State Board of **Medical** Examiners ~~of Psychologists~~.

\* \* \*

§221. Definitions

As used in this Part:

\* \* \*

(10) "Psychologist" means a clinical **or medical** psychologist who is licensed to practice psychology in Louisiana.

\* \* \*

Section 8. R.S. 37:1744(A)(2), 1745 (A)(2), 1745.14(C)(4), 2360(A)(1), (2) and (3), 2365(A) and (B), and 3386.1(15)(b) are hereby amended and reenacted and R.S. 37:2356.1 is hereby enacted to read as follows:

§1744. Disclosure of financial interest by referring health care providers

A. For the purposes of this Section, the following terms shall have the following meanings:

\* \* \*

(2) "Health care provider" means a person, partnership, or corporation, licensed by this state to provide health care or professional services as a physician, dentist, chiropractor, podiatrist, optometrist, physical therapist, psychologist, **medical psychologist**, licensed professional counselor, registered or licensed practical nurse, pharmacist, and any officer, employee, or agent thereof acting in the course and scope of his employment.

\* \* \*

§1745. Prohibition on payment for patient referrals

A. For the purposes of this Section, the following terms shall have the following meanings:

\* \* \*

(2) "Health care provider" means a person, partnership, or corporation licensed by the state to provide health care or professional services as a physician, chiropractor, dentist, dental hygienist, podiatrist, optometrist, physical therapist, psychologist, **medical psychologist**, licensed professional counselor, registered or licensed practical nurse, pharmacist, and any officer, employee, or agent thereof acting in the course and scope of his employment.

\* \* \*

§1745.14. Reporting of certain actions taken by health care entities; to whom to report; information to be reported; time frame for reporting

\* \* \*

C. A report shall not be required under this Section when a health care professional is granted a leave of absence for evaluation or treatment of impairment or possible impairment provided all of the following conditions are met:

\* \* \*

(4) The individual, if a physician, cooperates with the Physicians Health Program of the Louisiana State Board of Medical Examiners or, if a registered nurse,



1 cooperates with the Recovering Nurses Program of the Louisiana State Board of  
2 Nursing or, if a dentist, cooperates with the Dentist Well-Being Committee program  
3 of the Louisiana Dental Association, as approved by the Louisiana State Board of  
4 Dentistry, or if a medical psychologist, cooperates with the ~~Impaired Psychologist~~  
5 ~~Program of the Louisiana State Board of Examiners of Psychologists~~ **a program**  
6 **approved by the Louisiana State Board of Medical Examiners.**

7 \* \* \*

8 **§2356.1. Authorization to obtain criminal history record information**

9 **A. As used in this Section, the following terms shall have the following**  
10 **meaning:**

11 **(1) "Applicant" means an individual who has made application to the**  
12 **board for the issuance or reinstatement of any license, registration, certificate,**  
13 **permit, or any other designation deemed necessary to engage or assist in the**  
14 **practice of psychology that the board is authorized by law to issue.**

15 **(2) "Bureau" means the Louisiana Bureau of Criminal Identification and**  
16 **Information of the office of state police within the Department of Public Safety**  
17 **and Corrections.**

18 **(3) "Criminal history record information" means information collected**  
19 **by state and federal criminal justice agencies on individuals consisting of**  
20 **identifiable descriptions and notations of arrests, detentions, indictments, bills**  
21 **of information, or any formal criminal charges, and any disposition arising**  
22 **therefrom, including sentencing, criminal correctional supervision, and release,**  
23 **but does not include intelligence for investigatory purposes, nor does it include**  
24 **any identification information which does not indicate involvement of the**  
25 **individual in the criminal justice system.**

26 **(4) "FBI" means the Federal Bureau of Investigation of the United States**  
27 **Department of Justice.**

28 **(5) "Licensure" means the granting of any license, permit, certification,**  
29 **or registration that the board is authorized to issue.**

30 **B. In addition to any other requirements established by regulation, the**

1 board may require an applicant, as a condition of licensure:

2 (1) To submit a full set of fingerprints, in a form and manner prescribed  
3 by the board.

4 (2) To permit the board to request and obtain state and national criminal  
5 history record information on the applicant.

6 (3) To collect from the applicant, in addition to all other applicable fees  
7 and costs, such amount as may be incurred by the board in requesting and  
8 obtaining state and national criminal history record information on the  
9 applicant.

10 C. In accordance with the provisions and procedures prescribed by this  
11 Section, the board may request and obtain state and national criminal history  
12 record information from the bureau and the FBI relative to any applicant for  
13 licensure whose fingerprints the board has obtained pursuant to this Section for  
14 the purpose of determining the applicant's suitability and eligibility for  
15 licensure.

16 D. Upon request by the board and upon the board's submission of an  
17 applicant's fingerprints and such other identifying information as may be  
18 required, the bureau shall conduct a search of its criminal history record  
19 information relative to the applicant and report the results of its search to the  
20 board within sixty days from receipt of any such request. The bureau may  
21 charge the board a processing fee for conducting and reporting on any such  
22 search.

23 E. If the criminal history record information reported by the bureau to  
24 the board does not provide grounds for disqualification of the applicant for  
25 licensure under the applicable law administered by the board, the board shall  
26 have the authority to forward the applicant's fingerprints and such other  
27 identifying information as may be required to the FBI with a request for a  
28 search of national criminal history record information relative to the applicant.

29 F. Any and all state or national criminal history record information  
30 obtained by the board from the bureau or FBI which is not already a matter of

public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents, and attorneys for the purpose of evaluating the applicant's eligibility or disqualification for licensure. No such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

\* \* \*

§2360. Violation and penalties

A. It shall be a misdemeanor:

(1) For any person not licensed under this Chapter or Part VI of Chapter 15 of this Title to represent himself as a psychologist; or

(2) For any person not licensed under this Chapter or Part VI of Chapter 15 of this Title to engage in the practice of psychology; or

(3) Except for medical psychologists duly licensed by the Louisiana State Board of Medical Examiners, For for any person to represent himself as a psychologist during the time that his license as a psychologist shall be suspended or revoked or lapsed; or

\* \* \*

§2365. Scope of Chapter

A. Members of other professions which are licensed or certified under the laws of this state shall be permitted to render services consistent with their professional training and code of ethics, provided they do not represent themselves as psychologists or their work as psychological. The provisions of this Subsection shall not apply to those persons duly licensed as medical psychologists by the Louisiana State Board of Medical Examiners.

B. Duly ordained clergy and Christian Science practitioners shall be permitted to function in their ministerial capacity provided they do not represent themselves as psychologists, or their work as psychological, unless they have been licensed under the provisions of this Chapter or Part VI of Chapter 15 of this Title.

1 \* \* \*

2 §3386.1. Definitions

3 As used in this Chapter the following definitions shall apply:

4 \* \* \*

5 (15) "Qualified mental health professional" means:

6 \* \* \*

7 (b) A psychologist licensed pursuant to R.S. 37:2351 et seq., or a medical  
 8 psychologist licensed pursuant to R.S. 37:1360.51 et seq.

9 \* \* \*

10 Section 9. R.S. 40:1098.2(5)(b) and 2114(B) are hereby amended and reenacted to  
 11 read as follows:

12 §1098.2. Definitions

13 As used in this Subpart, the following terms shall have the following  
 14 meanings:

15 \* \* \*

16 (5) "Qualified professional" shall include:

17 \* \* \*

18 (b) A licensed clinical social worker, psychologist licensed under R.S.  
 19 37:2351 et seq., medical psychologist licensed under R.S. 37:1360.51 et seq.,  
 20 physician licensed to practice medicine by the Louisiana State Board of Medical  
 21 Examiners, or licensed professional counselor.

22 \* \* \*

23 §2114. Organization of medical and dental staff

24 \* \* \*

25 B. Each hospital offering care or services within the scope of the practice of  
 26 psychology, as defined in R.S. 37:2352(5), ~~prior to January 1, 1993,~~ shall establish  
 27 rules, regulations, and procedures for consideration of an application for medical  
 28 staff membership and clinical privileges submitted by a psychologist licensed to  
 29 practice psychology by the Louisiana State Board of Examiners of Psychologists or  
 30 a medical psychologist licensed to practice medical psychology by the Louisiana

State Board of Medical Examiners. No hospital shall deny such medical staff membership and clinical privileges solely because the applicant is licensed under R.S. 37:2351 et seq., **or R.S. 37:1360.51 et seq.**

\* \* \*

Section 10. R.S. 44:4(29) is hereby amended and reenacted to read as follows:

§4. Applicability

This Chapter shall not apply:

\* \* \*

(29) To any records, writings, accounts, recordings, letters, exhibits, data, pictures, drawings, charts, photographs, or copies or memoranda thereof, and any report or reports concerning the fitness of any person to receive or continue to hold a license to practice as a psychologist in the custody or control of the Louisiana State Board of Examiners of Psychologists **or to receive or continue to hold a license to practice as a medical psychologist in the custody or control of or the Louisiana State Board of Medical Examiners;** however, any action taken by the board and any legal grounds upon which such action is based, relative to the fitness of any person to receive or continue to hold a license to practice as a psychologist shall be a public record, and statistical reports which do not reveal the identity of any licensed psychologist may be released to the public.

\* \* \*

Section 11. Part VI of Chapter 15 of Title 37 of the Louisiana Revised Statutes of 1950, comprised of R.S. 37:1360.51 through 1360.72, is hereby enacted to read as follows:

**PART VI. MEDICAL PSYCHOLOGISTS**

**§1360.51. Short title**

**This Part may be cited as the "Medical Psychology Practice Act."**

**§1360.52. Definitions**

**As used in this Part the following words, terms, and phrases have the meaning ascribed to them in this Section, unless the context clearly indicates a different meaning:**

**(1) "Board" means the Louisiana State Board of Medical Examiners as**

1 established in R.S. 37:1263.

2 (2) "Drug" means the same as the term "drug" as defined in R. S.  
3 40:961(16), including controlled substances except narcotics, but shall be limited  
4 only to those agents related to the diagnosis and treatment or management of  
5 mental, nervous, emotional, behavioral, substance abuse or cognitive disorders.  
6 Nothing in this Part shall be construed to permit a medical psychologist to  
7 administer or prescribe a narcotic.

8 (3) "LAMP" means the Louisiana Academy of Medical Psychologists.

9 (4) "LSBEP" means the Louisiana State Board of Examiners of  
10 Psychologists.

11 (5) "Medical psychologist" or "MP" means a psychological practitioner  
12 who has undergone specialized training in clinical psychopharmacology and has  
13 passed a national proficiency examination in psychopharmacology approved by  
14 the board. Such practice specifically includes the authority to administer,  
15 prescribe, and distribute without charge, drugs as defined in this Part.

16 (6) "Medical Psychology Advisory Committee" means a committee,  
17 established by the board for purposes as defined in this Part.

18 (7) "Medical psychology" means that profession of the health sciences  
19 which deals with the examination, diagnosis, psychological, pharmacologic and  
20 other somatic treatment and/or management of mental, nervous, emotional,  
21 behavioral, substance abuse or cognitive disorders, and specifically includes the  
22 authority to administer, distribute without charge and/or prescribe drugs as  
23 defined in this Part. In addition, the practice of medical psychology includes  
24 those practices defined in R.S. 37:2352(5).

25 (8) "Mental, nervous, emotional, behavioral, substance abuse and  
26 cognitive disorders" means those disorders, illnesses or diseases listed in either  
27 the most recent edition of the Diagnostic and Statistical Manual of Mental  
28 Disorders published by the American Psychiatric Association or the mental,  
29 nervous, emotional, behavioral, substance abuse and cognitive disorders listed  
30 in the International Classification of Diseases published by the World Health

1        Organization.

2                (9) "Narcotics" means those natural or synthetic opioid analgesics, and  
3        their derivatives used to relieve pain.

4                (10) "Nurse" for the purpose of this Part means a licensed practical  
5        nurse or a registered nurse.

6                (11) "Physician" means an individual licensed by the board to engage in  
7        the practice of medicine in the state of Louisiana.

8        §1360.53. Powers and duties of the board

9                The board shall have and exercise with respect to medical psychologists,  
10        all powers and duties granted to it by R.S. 37:1261 et seq., relative to physicians.

11        In addition, the board shall have the authority to:

12                (1) Establish and publish standards of medical psychology practice in  
13        accordance with those developed and accepted by the profession.

14                (2) Approve, deny, revoke, suspend, renew and reinstate licensure or  
15        certification of duly qualified applicants.

16                (3) Adopt, promulgate, revise, and enforce orders, rules and regulations  
17        for initial licensure, renewal and certificates of advanced practice as the board  
18        may deem necessary to ensure the competency of applicants, the protection of  
19        the public and proper administration of this Part in accordance with the  
20        Administrative Procedure Act.

21                (4) Conduct hearings on charges calling for the denial, suspension,  
22        revocation, or refusal to renew a license or certificate.

23        §1360.54. License required

24                No one shall engage in the practice of medical psychology, or hold  
25        himself out as a medical psychologist in this state unless licensed in accordance  
26        with the provisions of this Part.

27        §1360.55. Qualifications of applicants

28                A. Notwithstanding any other provision of this Part or other law, on or  
29        before January 1, 2010, any medical psychologist shall be issued a medical  
30        psychology license by the board upon satisfaction of all of the following criteria:

1                   (1) Holds a current and unrestricted license in good standing to practice  
2                   psychology issued by the Louisiana State Board of Examiners of Psychologists.

3                   (2) Holds a current and unrestricted certificate of prescriptive authority  
4                   issued by the Louisiana State Board of Examiners of Psychologists.

5                   (3) Holds a controlled and dangerous substance permit issued by the  
6                   Louisiana Board of Pharmacy.

7                   (4) Holds a controlled substance registration issued by the United States  
8                   Drug Enforcement Administration.

9                   B. After January 1, 2010, the board shall issue a medical psychology  
10                  license to applicants who submit an application upon a form and in such a  
11                  manner as the board prescribes and who furnish evidence to the board which  
12                  meets all of the following criteria:

13                  (1) Holds a current and unrestricted license in good standing to practice  
14                  psychology issued by the Louisiana State Board of Examiners of Psychologists.

15                  (2) Has successfully graduated with a post-doctoral master's degree in  
16                  clinical psychopharmacology from a regionally accredited institution or has  
17                  completed equivalent training to the post-doctoral master's degree approved by  
18                  the board. The curriculum shall include instruction in anatomy and physiology,  
19                  biochemistry, neurosciences, pharmacology, psychopharmacology, clinical  
20                  medicine/pathophysiology and health assessment, including relevant physical  
21                  and laboratory assessment.

22                  (3) Has passed a national exam in psychopharmacology approved by the  
23                  board.

24                  C. Medical psychologists licensed by the board shall be eligible for a  
25                  controlled and dangerous substance permit and registration issued by the state  
26                  and the United States Drug Enforcement Agency.

27                  §1360.56. Consultation and collaboration for medical psychologists without a  
28                  certificate of advanced practice

29                  A. Medical psychologists shall prescribe only in consultation and  
30                  collaboration with the patient's primary or attending physician, and with the



1 concurrence of that physician.

2 B. The medical psychologist shall also re-consult with the patient's  
3 physician prior to making changes in the patient's medication treatment  
4 protocol, as established with the physician, or as otherwise directed by the  
5 physician. The medical psychologist and the physician shall document the  
6 consultation in the patient's medical record.

7 C. In the event a patient does not have a primary or attending physician,  
8 the medical psychologist shall not prescribe for that patient.

9 D. The board shall promulgate rules relating to how the consultation and  
10 collaboration shall be affected in consultation with the Medical Psychology  
11 Advisory Committee.

12 §1360.57. Certificate of advanced practice

13 Medical psychologists who satisfy the requirements specified by Section  
14 1360.55(A) of this Part and who possess all of the following additional  
15 qualifications to the satisfaction of the board shall be issued a certificate of  
16 advanced practice:

17 (1) Three years of experience practicing as a medical psychologist. For  
18 those individuals licensed under R.S. 37:1360.55(A), such experience shall be  
19 deemed to have commenced with the issuance of the original certificate of  
20 prescriptive authority issued by the Louisiana State Board of Examiners of  
21 Psychologists.

22 (2) Treatment of a minimum of one hundred patients including twenty-  
23 five or more involving the use of major psychotropics and twenty-five or more  
24 involving the use of major antidepressants which demonstrate the competence  
25 of the medical psychologist.

26 (3) The recommendation of two collaborating physicians, each of whom  
27 holds an unconditional license to practice medicine in Louisiana, and who are  
28 each familiar with the applicant's competence to practice medical psychology.

29 (4) The recommendation of the Medical Psychology Advisory  
30 Committee.

1           (5) The completion of a minimum of one hundred hours of continuing  
2           medical education relating to the use of medications in the management of  
3           patients with psychiatric illness commencing with the issuance of a certificate  
4           of prescriptive authority by the Louisiana State Board of Examiners of  
5           Psychologists prior to January 1, 2010, or by the board after this date.

6           §1360.58. Issuance and renewal of license

7           A. The board shall issue a license or certificate to any person who meets  
8           the qualifications provided for in this Part and the rules and regulations of the  
9           board, and who pays the respective fees fixed by the board.

10          B. A license or certificate issued under the provisions of this Part shall  
11          be subject to annual renewal and shall expire and become null and void unless  
12          renewed in the manner prescribed by the board.

13          §1360.59. Designation of license

14          A. A license or certificate issued under this Part shall designate the  
15          licensee's status with respect to advanced practice.

16          B. Any individual who is issued a license as a medical psychologist under  
17          the provisions of this Part may use the words "medical psychologist" or  
18          "psychologist" or may use the letters "MP" in connection with his name to  
19          denote licensure.

20          §1360.60. Reinstatement of license

21          A. Any license or certificate suspended, revoked, or otherwise restricted  
22          by the board may be reinstated by the board.

23          B. A license or certificate that has expired without renewal may be  
24          reinstated by the board for a period of two years from the date of expiration,  
25          provided the applicant is otherwise eligible under the provisions of this Part,  
26          pays the applicable fees, and satisfies the continuing education and such other  
27          requirements as may be established by the board.

28          §1360.61. Standards of practice for medical psychologists

29          A. Medical psychologists shall be authorized to administer and prescribe  
30          only drugs recognized and customarily used for the management of mental,

1 nervous, emotional, behavioral, substance abuse and cognitive diseases or  
2 disorders.

3 B. Standards for the treatment or management of common  
4 complications of the drug therapy provided by medical psychologists will be set  
5 forth in rules and regulations which shall be promulgated and adopted by the  
6 board, in consultation with the Medical Psychology Advisory Committee, in  
7 accordance with the Administrative Procedure Act.

8 C. Medical psychologists may not order, administer, prescribe or  
9 distribute narcotics, as defined in this Part.

10 D. Nothing in this Part shall be interpreted or construed as permitting  
11 a medical psychologist to pharmacologically treat patients for other primary  
12 medical conditions, unless specifically defined in and authorized by the board  
13 in such rules and regulations as might be necessary.

14 E. Practitioners licensed under this Part may order and interpret  
15 laboratory studies and other medical diagnostic procedures, as necessary for  
16 adequate pretreatment health screening, diagnosis of mental, nervous,  
17 emotional, behavioral, substance abuse and cognitive disorders and treatment  
18 maintenance, including those necessary for the monitoring of potential side-  
19 effects associated with medications prescribed by the medical psychologist.

20 F. Medical psychologists shall maintain Basic Life Support certification.

21 G. Notwithstanding any law to the contrary, nothing in this Part shall  
22 prohibit or restrict medical psychologists, licensed under the provisions of this  
23 Part, from employing or otherwise utilizing psychological technicians or  
24 psychometricians to assist in the provision of non-medical psychological  
25 services.

26 (1) Psychological technicians or psychometricians shall be authorized  
27 to administer psychological tests and provide other technical, ancillary non-  
28 medical psychological services as specifically ordered by the medical  
29 psychologist.

30 (2) Psychological technicians or psychometricians shall minimally hold

1 a bachelor's degree in psychology from an accredited college or university.

2 (3) Psychological technicians or psychometricians shall administer  
3 psychological tests or provide other technical, ancillary non-medical  
4 psychological services only under the general supervision of the medical  
5 psychologist.

6 (4) The medical psychologist employing or otherwise utilizing the  
7 services of a psychological technician or psychometrician assumes the  
8 professional responsibility and liability for all services and actions undertaken  
9 by the psychological technician or psychometrician acting on behalf of the  
10 medical psychologist.

11 (5) The medical psychologist shall provide the board, in such manner  
12 and form as directed by the board, with the name and credentials  
13 of any psychological technician or psychometrician under his or her  
14 supervision.

15 (6) Psychological technicians or psychometrician in the employ or  
16 otherwise utilized by a medical psychologist under the provisions of this Part  
17 may provide other technical, ancillary non-medical psychological services as  
18 might be approved by the board.

19 (7) The board, in consultation with the Medical Psychology Advisory  
20 Committee, shall have the authority to promulgate such rules and regulations  
21 necessary to otherwise govern the activities of psychological technicians or  
22 psychometricians.

23 §1360.62. Standards of practice for medical psychologists holding certificates  
24 of advanced practice

25 A. Patients receiving care from a medical psychologist who holds a  
26 certificate of advanced practice issued under this Part shall have an established  
27 primary, attending or referring physician licensed by the board who shall be  
28 responsible for the patient's overall medical care.

29 B. The primary, attending or referring physician shall evaluate the  
30 patient for medical conditions in accordance with customary practice standards,

1 and as might be indicated based on the medications that the patient is receiving  
2 and/or risk factors that may be present. If the patient has been referred to a  
3 medical psychologist holding a certificate of advanced practice for the express  
4 purpose of evaluation and treatment to include drug management by the  
5 primary, attending or referring physician, this condition shall be considered  
6 met.

7 C. The medical psychologist shall provide the primary, attending or  
8 referring physician with a summary of the treatment planned at the initiation  
9 of treatment.

10 D. The medical psychologist shall provide the primary, attending or  
11 referring physician with follow up reports as may be dictated by the patient's  
12 condition.

13 E. The medical psychologist shall provide the patient's primary,  
14 attending or referring physician with a summary of the patient's condition and  
15 treatment no less than annually.

16 F. The requirements for Subsections C, D and E of this Section shall be  
17 considered satisfied if the medical psychologist provides the physician with a  
18 copy of the initial examination and follow up visit records.

19 §1360.63. Medical Psychology Advisory Committee

20 A. A Medical Psychology Advisory Committee shall be established by  
21 the board for the purpose of reviewing and recommending action on application  
22 for licensure, recommending educational requirements for other medical  
23 activities that may be provided by medical psychologists, recommending  
24 changes in related statutes and rules, as well as other activities as might be  
25 requested by the board.

26 B. The Medical Psychology Advisory Committee shall consist of the  
27 following five members selected by the board:

28 (1) One member shall be a physician who is certified by the American  
29 Board of Medical Specialties or the American Osteopathic Association  
30 equivalent in the specialty of psychiatry and who is licensed to practice medicine

1 in this state selected from a list of names submitted by the Louisiana State  
2 Medical Society and who is recommended by the Louisiana Psychiatric Medical  
3 Association and the Louisiana Academy of Medical Psychologists.

4 (2) Four members shall be medical psychologists selected from a list of  
5 names recommended by the Louisiana Academy of Medical Psychologists.

6 C. The executive director of the board shall serve as an ex officio, non-  
7 voting member of the committee.

8 D. Members shall serve at the pleasure of the board. A vacancy in an  
9 unexpired term shall be filled in the manner of the original appointment.

10 E. The committee may meet as needed but shall meet at least twice a  
11 year. A majority of the members of the committee shall constitute a quorum for  
12 the transaction of all business.

13 F. Members of the committee shall serve without compensation but shall  
14 be reimbursed for travel expenses incurred in attendance at meetings and other  
15 official business on behalf of the committee or the board.

16 §1360.64. Privileged communications

17 A. In judicial proceedings, whether civil, criminal, or juvenile, legislative  
18 and administrative proceedings, and proceedings preliminary and ancillary  
19 thereto, a patient or his legal representative, may refuse to disclose or prevent  
20 the disclosure of confidential information, including information contained in  
21 administrative records, communicated to a medical psychologist licensed under  
22 this Part, or persons reasonably believed by the patient to be so licensed, or to  
23 their employees or other persons under their supervision, for the purpose of  
24 diagnosis, evaluation, or treatment of any mental or emotional condition or  
25 disorder.

26 B. In the absence of evidence to the contrary, the medical psychologist  
27 is presumed to be authorized to claim the privilege on behalf of the patient.

28 C. This privilege may not be claimed by or on behalf of the patient in the  
29 following circumstances:

30 (1) Where child abuse, elder abuse, or the abuse of disabled or

1 incompetent individuals is known or reasonably suspected.

2 (2) Where the validity of a will of a deceased former patient is contested  
3 or his mental or emotional condition is at issue otherwise on judicial or  
4 administrative proceedings.

5 (3) Where the information is necessary for the defense of the medical  
6 psychologist in a malpractice action brought by the patient.

7 (4) Where an immediate threat of physical violence against a clearly  
8 identified victim or victims is disclosed to the medical psychologist.

9 (5) In the context of civil commitment proceedings, where an immediate  
10 threat of self-inflicted damage is disclosed to the medical psychologist.

11 (6) Where the patient puts his mental state in issue by alleging mental  
12 or emotional damages or condition in any judicial or administrative  
13 proceedings.

14 (7) Where the patient is examined pursuant to court order.

15 (8) Where the board is conducting an investigation or hearing.

16 §1360.65. Continuing medical education

17 A. Medical psychologists shall annually complete a minimum of twenty  
18 hours of approved continuing medical education relevant to the practice of  
19 medical psychology.

20 B. Approved sponsors of continuing medical education for practitioners  
21 licensed under this Part shall include, the Louisiana Academy of Medical  
22 Psychologists, the Louisiana State Medical Society, sponsors accredited by the  
23 Accreditation Council for Continuing Medical Education approved to offer  
24 Category 1 educational activities, and other sponsors as may be approved by the  
25 board.

26 C. A minimum of twenty-five percent of a medical psychologist's  
27 continuing medical education shall be provided by the Louisiana Academy of  
28 Medical Psychology.

29 D. In addition, to meeting the requirements for continuing medical  
30 education, as required in Subsection A of this Section, medical psychologists

1 shall annually complete a minimum of fifteen hours of continuing education in  
2 psychology. Approved sponsors for this additional requirement shall include  
3 the Louisiana Psychological Association, the American Psychological  
4 Association, and other sponsors as may be approved by the board.

5 E. A minimum of two of the required hours of continuing medical  
6 education or additional continuing education, as set forth in this Section, shall  
7 specifically involve ethics, as relevant to the practice of medical psychology.

8 §1360.66. Fees

9 The board, under its authority established in R.S. 37:1281, shall fix fees  
10 for the purpose of administering the provisions of this Part.

11 §1360.67. Causes for refusal to issue, suspension or revocation of licenses,  
12 permits, and certificates

13 A. The board may refuse to issue, or may suspend or revoke any license  
14 or certificate, or impose probationary or other restrictions on any license or  
15 certificate issued under this Part for the following causes:

16 (1) Conviction of a felony.

17 (2) Conviction of any crime or offense arising out of or relating to the  
18 practice of medical psychology.

19 (3) Fraud, deceit, or perjury in obtaining a diploma or certificate.

20 (4) Fraud or deception in applying for or procuring a license to practice  
21 psychology or medical psychology.

22 (5) Making any fraudulent or untrue statement to the board.

23 (6) Refusal to appear before the board after having been ordered to do  
24 so in writing by a duly authorized agent of the board.

25 (7) Habitual or recurring abuse of drugs, including alcohol, which affect  
26 the central nervous system and which are capable of inducing physiological or  
27 psychological dependence.

28 (8) Refusing to submit to the examinations and inquiry of an examining  
29 committee of physicians appointed or designated by the board to inquire into  
30 an applicant or licensee's physical and mental fitness and ability to practice



1 medical psychology with reasonable skill and safety to patients.

2 (9) Prescribing, dispensing, or administering legally controlled  
3 substances or any dependency-inducing medication without legitimate medical  
4 justification therefore or in other than a legal or legitimate manner.

5 (10) Impersonation of another licensed practitioner.

6 (11) Incompetence.

7 (12) Voluntary or involuntary commitment or interdiction by due  
8 process of law.

9 (13) Failure to self-report in writing to the board any personal action  
10 which constitutes a violation of this Part within thirty days of the occurrence.

11 (14) Solicitation of patients or self-promotion through advertising or  
12 communication, public or private, which is fraudulent, false, deceptive, or  
13 misleading.

14 (15) Making or submitting false, deceptive, or unfounded claims, reports,  
15 or opinions to any patient, insurance company or indemnity association,  
16 company, individual, or governmental authority for the purpose of obtaining  
17 any thing of economic value.

18 (16) Soliciting, accepting, or receiving any thing of economic value in  
19 return for and based on the referral of patients to another person, firm, or  
20 corporation or in return for the prescription of medications.

21 (17) Unprofessional conduct.

22 (18) Continuing or recurring practice which fails to satisfy the prevailing  
23 and usually accepted standards of medical psychology practice in this state.

24 (19) Gross, willful, and continued overcharging for professional services.

25 (20) Abandonment of a patient.

26 (21) Knowingly performing any act which, in any way, assists an  
27 unqualified person to practice medical psychology, or having professional  
28 connection with or lending one's name to an illegal practitioner.

29 (22) Inability to practice medical psychology with reasonable skill or  
30 safety to patients because of mental illness or deficiency; physical illness,

1 including but not limited to deterioration through the aging process or loss of  
2 motor skills; or excessive use or abuse of drugs, including alcohol.

3 (23) Violation of ethical principles and codes of conduct as promulgated  
4 by the American Psychological Association or violation of any code of ethics  
5 adopted in the rules and regulations of the board or other immoral,  
6 unprofessional, or dishonorable conduct as defined in the rules and regulations  
7 of the board.

8 (24) Practicing medical psychology in such a manner as to endanger the  
9 welfare of patients, including but not limited to:

10 (a) Harassment, intimidation, or abuse, sexual or otherwise, of a patient.

11 (b) Engaging in sexual intercourse or other sexual contact with a patient.

12 (c) Gross malpractice, repeated malpractice, or gross negligence in the  
13 practice of medical psychology.

14 (25) Use of repeated untruthful, deceptive, or improbable statements  
15 concerning the licensee's qualifications or the effects or results of proposed  
16 treatment, including functioning outside of one's professional competence  
17 established by education, training, and experience.

18 (26) Exercising undue influence in such a manner as to exploit the  
19 patient for financial or other personal advantage to the practitioner or a third  
20 party.

21 (27) Refusal of a licensing authority of another state to issue or renew a  
22 license, permit, or certificate to practice psychology or medical psychology in  
23 that state or the revocation, suspension, or other restriction imposed on a  
24 license, permit, or certificate issued by such licensing authority which prevents  
25 or restricts practice in that state, or the surrender of a license, permit, or  
26 certificate issued by another state when criminal or administrative charges are  
27 pending or threatened against the holder of such license, permit, or certificate.

28 (28) Violation of any rules and regulations of the board, or any  
29 provisions of this Part.

30 B. The board may, as a probationary condition, or as a condition of the

1 reinstatement of any license or certificate suspended or revoked hereunder,  
2 require the license or certificate holder to pay all costs of the board proceedings,  
3 including investigator, stenographer, and attorney fees, and to pay a fine not to  
4 exceed five thousand dollars.

5 C. Any license or certificate suspended, revoked, or otherwise restricted  
6 by the board may be reinstated by the board.

7 D. The board's final decision in an adjudication proceeding conducted  
8 pursuant to this Section, other than by consent order, agreement, or other  
9 informal disposition, shall constitute a public record, and the board may  
10 disclose and provide such final decision to any person, firm, or corporation, or  
11 to the public generally. The board's disposition of an adjudication proceeding  
12 by consent order shall not constitute a public record, but the board shall have  
13 authority and discretion to disclose such disposition.

14 E. No judicial order staying or enjoining the effectiveness or enforcement  
15 of a final decision or order of the board in an adjudication proceeding, whether  
16 issued pursuant to R.S. 49:964(C) or otherwise, shall be effective, or be issued  
17 to be effective, beyond the earlier of either:

18 (1) One hundred twenty days from the date on which the board's  
19 decision or order was rendered.

20 (2) The date on which a court of competent jurisdiction enters judgment  
21 in a proceeding for judicial review of the board's decision or order issued  
22 pursuant to R.S. 49:964.

23 F. Notwithstanding any other law to the contrary, no judicial order  
24 staying, enjoining, or continuing an adjudication proceeding before, or a  
25 preliminary, procedural, or intermediate decision, ruling, order, or action of,  
26 the board shall be effective or issued to be effective, whether pursuant to R.S.  
27 49:964 or otherwise, prior to the exhaustion of all administrative remedies and  
28 issuance of a final decision or order by the board.

29 G. No order staying or enjoining a final decision or order of the board  
30 shall be issued unless the district court finds that the applicant or petitioner has

1 established that the issuance of the stay does neither of the following:

2 (1) Threaten harm to other interested parties, including individuals for  
3 whom the applicant or petitioner may render medical psychology services.

4 (2) Constitute a threat to the health, safety, and welfare of the citizens of  
5 this state.

6 H. No stay of a final decision or order of the board shall be granted ex  
7 parte. The court shall schedule a hearing on a request for a stay order within  
8 ten days from filing of the request. The court's decision to either grant or deny  
9 the stay order shall be rendered within five days after the conclusion of the  
10 hearing.

11 **§1360.68. Persons and practices not affected**

12 Nothing in this Part shall be construed as preventing or restricting the  
13 practice, services, or activities of any individual:

14 (1) Licensed in this state by any other law from engaging in the  
15 profession or occupation for which he is licensed.

16 (2) Employed as a medical psychologist by the United States government  
17 in the event the individual practices solely under the direction or control of a  
18 United States governmental agency by which he is employed.

19 **§1360.69. Orders to nurses**

20 Notwithstanding any law or rule or regulation to the contrary, including,  
21 but not limited to Chapter 11 of Title 37 of the Louisiana Revised Statutes of  
22 1950, it shall be considered to be within the scope of the practice of nursing as  
23 defined in Chapter 11 of said Title 37 for a registered nurse, licensed practical  
24 nurse, and any other health care provider licensed under Chapter 11 of Title 37  
25 to execute and effectuate any order or direction otherwise within the scope of  
26 the practice of said health care provider when that order is within the scope of  
27 practice of medical psychology and given to him by a medical psychologist  
28 licensed under Part VI of Chapter 15 of Title 37 of the Louisiana Revised  
29 Statutes of 1950, and, when given in an institutional setting, the order is within

1 the scope of the privileges granted to the medical psychologist by that  
2 institution.

3 §1360.70. Injunction; penalty; attorney fees; costs

4 A. The board, through its president or the president's designee, may  
5 cause to issue in any competent court, a writ of injunction enjoining any person  
6 from practicing medical psychology in this state as defined herein until such  
7 person obtains a license under the provisions of this Part. This injunction shall  
8 not be subject to being released upon bond.

9 B. In the suit for an injunction, the board, through its president or  
10 designee, may demand of the defendant a penalty of not more than five hundred  
11 dollars, and attorney fees, in addition to court costs. This judgment for penalty,  
12 attorney fees, and court costs may be rendered in the same judgment in which  
13 the injunction is made absolute.

14 C. The trial of the proceeding by injunction shall be summary and by the  
15 judge without a jury.

16 §1360.71. Penalties

17 A. It shall be a misdemeanor for any individual:

18 (1) Not licensed under this Part to represent himself as a medical  
19 psychologist.

20 (2) Not licensed under this Part to engage in the practice of medical  
21 psychology.

22 (3) To represent himself as a medical psychologist during the time that  
23 his license as a medical psychologist shall be suspended or revoked or lapsed.

24 (4) To otherwise violate the provisions of this Part.

25 B. Such misdemeanor shall be punishable upon conviction by  
26 imprisonment for not more than six months, or by a fine of not less than one  
27 hundred dollars nor more than five hundred dollars, or both. Each violation  
28 shall be deemed a separate offense.

29 C. Such misdemeanor shall be prosecuted by the district attorney of the

1           judicial district in which the offense was committed in the name of the people  
 2           of the state of Louisiana.

3           §1360.72. Transfer of files

4                   The Louisiana State Board of Examiners of Psychologists shall provide  
 5           the board with copies of all files relating to medical psychologists.

6           Section 12. Part 2 of Chapter 28 of Title 37 of the Louisiana Revised Statutes of  
 7           1950, comprised of R.S. 37:2371 through 2378, is hereby repealed.

8           Section 13. The Louisiana State Law Institute is hereby directed to add the term  
 9           "medical psychologist" where it is appropriate to the following articles of the Children's  
 10          Code and Titles and Sections of the revised statutes:

11                  Children's Code Articles 326, 837.1, 1120, 1172, 1173, 1272, R.S. 14:81.2, R.S.  
 12          15:440.4, and R.S. 23:1775.

13           Section 14. Sections 1 through 10, 12, 13, and this Section of this Act shall become  
 14          effective on January 1, 2010.

15           Section 15. Sections 11 and this Section of this Act shall become effective upon  
 16          signature by the governor or, if not signed by the governor, upon expiration of the time for  
 17          bills to become law without signature by the governor, as provided by Article III, Section  
 18          18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved  
         by the legislature, this Act shall become effective on the day following such approval.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_